



THE
BAEZ
—LAW FIRM—
BAEZ, MEDINA AND ASSOCIATES

April 13, 2019

BY ECF

The Honorable Brian M. Cogan
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Mark Nordlicht, et al.
Criminal Docket No. 1:16-cr-00640-BMC

Dear Judge Cogan:

Defendant Mark Nordlicht respectfully submits this letter in opposition to the Government's proposed utilization, or introduction of written transcripts of investor calls during trial. The Government has provided Defense counsel with numerous written transcriptions of audio recordings, that were taken during the course of investor calls. Upon review of these written transcripts, Mr. Nordlicht raises an objection, given the transcriptions contain a number of errors, including but not limited to: typographical errors, date stamp errors, duplicative transcripts, and overall dictation errors. Several examples include, but are not exhaustive of the following:

1. GX-4402 and GX-4502: On the 2013 Q4 Conference Call, Uri Landesman states, "...which on an annualized basis comes out to 14 and a quarter percent." (GX-4402; timestamp: 6:00). However, the corresponding transcript states that "...which on an annualized basis comes out to 8 and a quarter percent." (GX-4502; p. 2).



2. GX-7106: Transcript says the recording occurred on Sept. 17, 2014 5:56 p.m. There is a transcript for Recording 7 which says it also occurred on Sept. 17, 2014 at 5:56 p.m. but they are different recordings.
3. Recording 27: Transcript says "this is a recording of Mark Nordlicht". However, it is not Mark Nordlicht on the call.
4. **GX-7113:** T, p.18: "I'm invested in PPVA." The recording really says "I'm *heavily* invested in PPVA."

Clearly any transcription that is intended to be used either as an aid to the jury, or be moved into evidence, must accurately represent the underlying record. The number, nature and materiality of these discrepancies, make these transcripts unreliable, and misleading. As such, Mr. Nordlicht respectfully requests that the Government should not be permitted to use any of these deceptive transcripts, either as an aid for the jury, or in evidence. Further, that the Government correct any transcription errors, and provide such corrections to Defense counsel no later than midnight on Monday, April 15, 2019, so that Defense counsel has adequate opportunity to ensure that all errors have been adequately corrected.

Sincerely,

/s/ Jose Baez

Jose A. Baez, Esq.

On behalf of Mark Nordlicht

cc: All Counsel of Record (via Email)